

REMARKS/ARGUMENTS

Favorable reconsideration of this application, as presently amended and in light of the following discussion, is respectfully requested.

Claims 1-2, 5-6, 9 and 12-14 are pending in the application. Claims 1-2, 6 and 12 are amended by the present amendment. Support for the amended claims can be found in the original specification, claims and drawings.¹ No new matter is added.

In the Office Action Claims 1-2, 6 and 12 are rejected under 35 U.S.C. § 112, first paragraph; and Claims 1-2, 5-6 and 9-14 are rejected under 35 U.S.C. §102(e) as anticipated by Hayama et al. (U.S. Pat. 7,006,484, herein Hayama).

As an initial matter, the undersigned appreciatively acknowledges the courtesy extended by Examiner Safaipour in holding an interview with the undersigned on December 2, 2008. During the interview, an overview of the invention was presented, and proposed claim amendments were discussed, which Examiner Safaipour indicated would overcome the applied reference. In response, the claim amendments discussed during the interview are incorporated into independent Claims 1-2, 6 and 12 as discussed below.

The Office Action rejects Claims 1-2, 6 and 12 under 35 U.S.C. § 112, first paragraph, as failing to comply with the written description requirement. More particularly, the Office Action asserts that the specification fails to provide support for the phrase “an absolute radio resource”. In response, Claims 1-2, 6 and 12 are amended to omit the term “absolute”, and recite specific examples of radio resources.

Accordingly, Applicants respectfully request that the rejection of Claims 1-2, 6 and 12 under 35 U.S.C. § 112, first paragraph, be withdrawn.

The Office Action rejects Claims 1-2, 5-6 and 9-14 under 35 U.S.C. §102(e) as anticipated by Hayama. In response to this rejection, Applicants respectfully submit that

¹ E.g., specification, p. 7, l. 35 – p. 8, l. 15, p. 12, ll. 9-31, p. 21, l. 33 – p. 23, l. 29.

amended independent Claims 1, 2, 6 and 12 recite novel features clearly not disclosed by Hayama.

Independent Claim 1, for example, recites a mobile communication system comprising:

a holding unit configured to hold layered data and a corresponding radio resource amount ***indicating at least one of a number of channels, a number of multiplexed codes or a transmission power required for transmitting the layered data;***

a determination unit configured to ***compare area resource information indicating at least one of an available number of channels, an available number of multiplexed codes or an available transmission power*** for respective radio areas covered by base stations with the radio resource amount held in the holding unit, and to determine, from layered data of a highest layer, at least one layered data of which the radio resource held in the holding unit satisfies the area resource information ...

Independent Claims 2, 6 and 12, while directed to alternative embodiments, are amended to recite similar features. Accordingly, the remarks and arguments presented below are applicable to each of independent Claims 1, 2, 6 and 12.

As described in an exemplary embodiment at Fig. 4 and p. 12, lines 9-31, the transmission data management unit 24 of the radio network controller 20 is capable of determining which layers of data should be sent to a base station 10 for subsequent transmission to a mobile station 30 based on resource information (e.g., an available number of channels, an available number of multiplexed codes or an available transmission power) corresponding to the radio area 40 served by the base station and stored resource information 24a (e.g., a number of channels, a number of multiplexed codes or a transmission power) corresponding to the resources required for transmitting the layered data.

Turning to the applied reference, Hayama describes a radio communication system arranged to deliver multimedia information to plural mobile stations through the radio channels connected in a CDMA system.² Hayama's base station includes an interface for

² Hayama, col. 1, line 64 – col. 2, line 1.

receiving frames of prioritized layered information and an allocating device for allocating the frame received on the interface to a proper channel according to its transmission priority.³

More specifically, col. 12, l. 58 – col. 13, l. 5 and Fig. 12A of Hayama describes that a base station apparatus 201 allocates available transmission power to each layered data at a rate according to a priority of each layered data. For example, the transmission power of the traffic channel containing the layer 1 information (i.e. highest priority) is relatively represented as 1, and the transmission power of the traffic channel containing the layer 2 information (i.e., lower priority) is represented as $\frac{1}{2}$. Thus, Hayama describes that available transmission power (e.g., a currently available resource amount), is relatively allocated to each layered data at a rate according to a priority of each layer of data.

Hayama, however, fails to teach or suggest “hold[ing] layered data and a corresponding radio resource amount *indicating at least one of a number of channels, a number of multiplexed codes or a transmission power required for transmitting the layered data*” and “*compar[ing] area resource information indicating at least one of an available number of channels, an available number of multiplexed codes or an available transmission power* for respective radio areas covered by base stations with the radio resource amount held in the holding unit” and “determine[ing], from layered data of a highest layer, at least one layered data of which the radio resource held in the holding unit satisfies the area resource information” as recited in amended independent Claim 1.

Instead, as noted above, Hayama merely describes that available transmission power (e.g., a currently available resource amount) is relatively allocated to each layered data at a rate according to a priority of each layer of data. Hayama, however, fails to disclose holding the above noted radio resource amount parameters recited in Claim 1, much less comparing

³ Id., col. 2, lines 2-6.

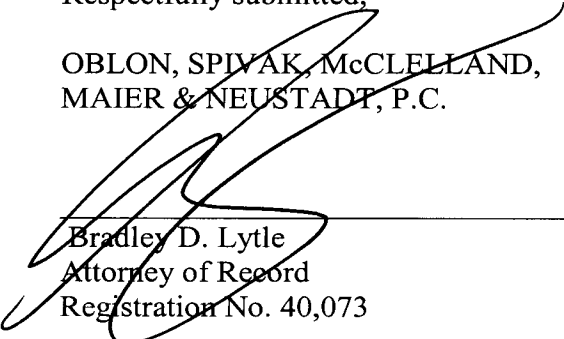
these parameters to similar area resource parameters, which is also a feature recited in amended independent Claim 1.

Accordingly, Applicants respectfully request that the rejection of Claim 1 (and the claims that depend therefrom) under 35 U.S.C. § 102 be withdrawn. For substantially similar reasons, it is also submitted that independent Claims 2, 6 and 12 (and the claims that depend therefrom) patentably define over Hayama.

Consequently, in view of the present amendment and in light of the foregoing comments, it is respectfully submitted that the invention defined by Claims 1-2, 5-6, 9 and 12-14 is definite and patentably distinguishing over the applied references. The present application is therefore believed to be in condition for formal allowance and an early and favorable reconsideration of the application is therefore requested.

Respectfully submitted,

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